

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 06-40153

CHRISTOPHER JASON BALITZKY,

Chapter 13

Debtor.

Judge Thomas J. Tucker

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**ORDER DENYING DEBTOR'S MOTION TO EXTEND
THE AUTOMATIC STAY**

Debtor filed his voluntary petition for relief under Chapter 13 on January 5, 2006. On January 12, 2006, Debtor filed his "Motion For Continuation of the Automatic Stay Under 11 U.S.C. § 362(c)(3)(B)" (Docket # 15). Debtor served his motion on the Chapter 13 Trustee and all creditors on January 16, 2006. (Certificate of Service, Docket # 17.) But Debtor took no further action until February 4, 2006, when Debtor filed a Certificate of Non-Response, indicating that no one had filed an objection to the motion.

Under 11 U.S.C. § 362(c)(3)(B),¹ in order for the court to extend the stay, a hearing on a motion to extend the automatic stay must be completed before the stay terminates under § 362(c)(3)(A), and, therefore, within 30 days of the filing of the case. Because of the statute's 30-day hearing deadline, L.B.R. 4001-6(a) (E.D.M.) requires that a motion to extend the stay be filed and served within 7 days after the bankruptcy petition is filed, and that:

Immediately after filing the motion [to extend the stay], the movant shall obtain a hearing date from the judge's courtroom deputy clerk, who will cause notice of the hearing to be served on parties in interest. Any party in interest may be heard at the hearing. Written objections are permitted but not required.

¹ Citations to the Bankruptcy Code in this Order are to the Code as amended by the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005."

In this case, Debtor did not contact the judge's courtroom deputy clerk and obtain a hearing date, so no hearing on the motion was scheduled before the stay terminated on February 4, 2006. By the time Debtor filed his Certificate of No Response, on February 4, 2006, it was obviously impossible to schedule and complete a hearing on Debtor's motion to extend the stay within the required 30-day period, so the motion must be denied.

The Court notes further that filing a Certificate of No Response is not for this type of motion. *See* L.B.R. 9014-1(f)(11)(E.D.M.)(making L.B.R. 9014-1, including its provision for filing a certificate of no response, inapplicable to motions filed under L.B.R. 4001-6(a).

Accordingly,

IT IS ORDERED that "Debtor's "Motion For Continuation of the Automatic Stay Under 11 U.S.C. § 362(c)(3)(B)"(Docket # 15) is DENIED.

Date: February 7, 2006

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge